

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICARDO VILLAFLORES,
Plaintiff,

vs.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,**
Defendant.

CIVIL ACTION No. 04-74140

**HONORABLE BERNARD A. FRIEDMAN
HONORABLE STEVEN D. PEPE**

ORDER GRANTING DEFENDANT'S MOTION TO AMEND ITS WITNESS LIST (DKT. # 44)

Following a September 28, 2005 hearing, the undersigned issued an order that, *inter alia*, ordered the following:

Plaintiff shall submit to a neuropsychological evaluation by Dr. Bradley Axelrod of up to three hours. The verbal portions of the evaluation shall be audio taped by Dr. Axelrod but Plaintiff and counsel shall not be present. Dr. Axelrod's neuropsychological report and testimony may only be used in subsequent court proceedings in this matter if the audiotape of the neuropsychological exam is audible. This order is conditioned on Defendant moving to amend the witness list to include Dr. Axelrod.

(Order Following September 28, 2005, Hearing).

On October 7, 2005 Defendant filed a motion to amend its witness list to include Dr. Bradley Axelrod along with a brief in support. Plaintiff has asked that the Court deny Defendant's motion and filed a brief in support. On November 7, Defendant asked the undersigned to decide the Motion on the briefs filed without a hearing. The Plaintiff argued in its brief that failing to allow for the amended witness list would not result in the 'manifest

injustice' that Fed. R. Civ. P. 16(e) requires. The undersigned believes that because the Defendant is entitled to a neuropsychological evaluation of the Plaintiff, the failure to permit the Defendant to do so would result in manifest injustice. Therefore, IT IS ORDERED that Defendant's Motion to amend its witness list be GRANTED.

SO ORDERED.

Dated: November 23, 2005
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that copies of this Order were served upon the attorneys of record by electronic means or U. S. Mail on November 23, 2005.

s/William J. Barkholz
Courtroom Deputy Clerk